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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 2, 2000

APPLICATION OF

WOLF HILLS ENERGY, LLC

CASE NO. PUE990785

For Approval of a Certificate  
of Public Convenience and  
Necessity Pursuant to Va.  
Code § 56-265.2 and an  
Exemption from Chapter  
10 of Title 56

FINAL ORDER

On November 30, 1999, Wolf Hills Energy, LLC ("Wolf Hills" or "the Company"), filed an application pursuant to § 56-265.2 of the Code of Virginia for a certificate of public convenience and necessity ("certificate") to construct an electric generating facility ("the proposed facility") consisting of five gas-fired turbine generator units with an aggregate nominal capacity rating of 250 megawatts. Wolf Hills also seeks an exemption, pursuant to § 56-265.2 B of the Code of Virginia, from the provisions of Chapter 10 of Title 56.

The proposed facility is to be located just outside of the Bristol, Virginia, city limits in the Bristol - Washington County Industrial Park in Washington County, Virginia. A portion of the proposed project site is a "brownfield site" that was a publicly owned sewage treatment works closed under

oversight of the Virginia Department of Environmental Quality ("DEQ").

Wolf Hills is a limited liability company organized under the laws of the State of Maryland, and is a wholly owned subsidiary of Constellation Power, Inc. The Company would furnish electric generation service in Virginia as a "public utility" as defined in § 56-265.1(b) of the Code of Virginia. Wolf Hills states that it anticipates all of the electricity produced by the proposed facility will be sold on a wholesale basis to Constellation Power Source, Inc., an affiliate under common ownership with Wolf Hills.

Wolf Hills anticipates the proposed facility would begin commercial operation by June 2001 and operate mostly during the months of June through September.

The Commission Staff investigated Wolf Hills' application to evaluate the Company's financial and technical ability to perform services contemplated in the application. The Staff filed testimony on April 4, 2000. The Staff found that Wolf Hills has the financial capability to construct the proposed facility by virtue of its association with its ultimate corporate parent, Constellation Energy Group, Inc. The Staff also found that Wolf Hills', with the participation of its affiliates, is capable of developing the proposed facility.

The Staff's investigation included a review, coordinated by the DEQ, by various state and local agencies responsible for permits associated with the proposed facility. The DEQ advised that if the project is constructed in accordance with certain recommendations, the proposed facility "is unlikely to have significant effects on water quality, wetlands, historic structures and it will not affect species of plants listed by state agencies as rare, threatened, or endangered." <sup>1</sup>

Wolf Hills' application was heard before Hearing Examiner Michael D. Thomas on April 27, 2000. No public witnesses appeared at the hearing. Richard D. Gary, Esquire, and Gregory M. Romano, Esquire, appeared for Wolf Hills, and C. Meade Browder Jr., Esquire, appeared for the Commission Staff. At the hearing, Wolf Hills tendered a Stipulation entered by the Company and the Staff.<sup>2</sup> This Stipulation sets forth the Company's and Staff's agreement that Wolf Hills' application satisfies the statutory requirements of § 56-265.2 B for a certificate and an exemption from Chapter 10. In the Stipulation, Wolf Hills also commits to comply, or require its

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<sup>1</sup> Ex. HMS-6, App. 1-A. An operating air permit to be issued by DEQ will address specific regulations that must be adhered to for compliance on air issues. A draft air permit was issued to Wolf Hills by DEQ on March 9, 2000, and a final permit was expected to be issued on or about May 1, 2000. See Ex. JS-7 at 10 & Attachment 8.

<sup>2</sup> Ex. JS-7.

contractors to comply, with all recommendations of the reviewing agencies as to environmental issues.<sup>3</sup>

At the April 27, 2000, public hearing, the Hearing Examiner ruled on Wolf Hills' application from the bench and filed his written Report later the same day.<sup>4</sup> The Hearing Examiner opined that Wolf Hills' application presents a case "where the right project is proposed for the right site at the right time."<sup>5</sup>

In considering the statutory requirements of § 56-265.2 B, the Examiner found that the record established that the proposed facility will have no material adverse effect upon the rates paid by customers of any regulated public utility in Virginia or upon reliability of electric service provided by any such regulated public utility. He further found that the proposed facility would have no material effect on the environment and that it would comply with all current federal and state environmental permitting requirements. The Examiner found that the proposed facility is not otherwise contrary to the public interest, thereby concluding that Wolf Hills' application meets the requirements of § 56-265.2 B, and that the proposed facility should be exempt from the provisions of Chapter 10 of Title 56.

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<sup>3</sup> Ex. JS-7 at 9.

<sup>4</sup> At the hearing, Wolf Hills and the Staff waived their right to file comments on the Hearing Examiner's Report. Tr. at 15.

The Hearing Examiner's Report recommends that Wolf Hills be granted a certificate pursuant to § 56-265.2 B and that its proposed facility be granted an exemption from Chapter 10.

NOW THE COMMISSION, having considered the record, including Wolf Hills's application, the Staff Report, and the Stipulation, and the Hearing's Examiner's Report and applicable statutes, is of the opinion and finds that the findings and recommendations of the Hearing Examiner are reasonable and should be adopted. We concur with the Hearing Examiner that Wolf Hills' application meets the requirements for a certificate pursuant to § 56-265.2 B and its proposed facility is not otherwise contrary to the public interest. Accordingly,

IT IS ORDERED:

(1) The findings and recommendations of the Hearing Examiner's April 27, 2000, Report are adopted.

(2) Pursuant to § 56-265.2 B of the Code of Virginia, Wolf Hills is authorized to construct at the Bristol - Washington County Industrial Park in Washington County, Virginia, five gas-fired turbine generating units with an aggregate nominal capacity rating of 250 megawatts.

(3) The facilities authorized herein shall be exempt from the provisions of Chapter 10 of Title 56 of the Code of Virginia.

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<sup>5</sup> Report of Michael D. Thomas, Hearing Examiner at 4 (Apr. 27, 2000).

(4) There being nothing further to come before the Commission, this case shall be removed from the docket and the papers transferred to the file for ended causes.